

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	CRIMINAL ACTION NO.
v.)	2:17cr387-MHT
)	(WO)
MARCUS ANTIONE HOPKINS,)	
JR.)	

OPINION AND ORDER

This cause is before the court on defendant Marcus Antione Hopkins, Jr.'s motion to continue. For the reasons set forth below, the court finds that jury selection and trial, now set for March 12, 2018, should be continued pursuant to 18 U.S.C. § 3161(h)(8).

While the granting of a continuance is left to the sound discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy

days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Hopkins in a speedy trial. Hopkins represents that, due to his hospitalization and surgery, he has been unable to contribute substantively

to his defense, and that he recently has begun plea negotiations with the government. Furthermore, the government does not oppose the motion. In light of these circumstances, a continuance is warranted to enable defense counsel sufficient opportunity to prepare effectively for trial and to afford counsel sufficient time to explore the possibility of a plea.

Accordingly, it is ORDERED as follows:

(1) Defendant Marcus Antione Hopkins, Jr.'s motion for continuance (doc. no. 16) is granted.

(2) The jury selection and trial, now set for March 12, 2018, are reset for April 16, 2018, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 12th day of February, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE